

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.1425 OF 2005
IN
EXECUTION APPLICATION NO.407 OF 2003
IN
SUMMARY SUIT NO.1157 OF 1999

ICDS Limited	Plaintiff
V/s.	
M/s.GSCL Trading Company,	
Proprietorship concern of Garware	
Shipping Corporation Ltd. & Ors.	Defendants
And	
M.Visvesvarya Industrial Research	
& Development Centre	Applicants

Ms.Pratibha Mehta i/b M/s.Little & Co. for the Applicants.
Mr.Ashish Kamath i/b Deshpande & Co. for Defendant No.2.

CORAM : S.J. VAZIFDAR, J.
DATED : 13TH FEBRUARY, 2006.

P.C. :

1. The Applicants have taken out this Chamber Summons to raise and set-aside the warrant of attachment dated 15.10.2003.

2. The Plaintiff obtained a decree against Defendant No.1 dated 9.3.2001 for the sum of Rs.9,17,846=75 ps. together with interest at the rate of 18% p.a. on Rs.7,19,244=75 ps. from the date of filing of the suit till payment. The attachment was

levied on the property namely Unit No.7 on the second floor of World Trade Centre, Mumbai.

3. Defendant No.2 is a part of Defendant No.1. It is pertinent to note that the suit was decreed only against Defendant No.1, acceptor of the bill of exchange. Defendant No.2 is the drawer but no decree was sought against Defendant No.2.

4. The Applicants are admittedly the owners of the said premises. An agreement dated 18th June, 1977 was entered into with one Garware Nylons Limited. By the agreement, the Applicants granted a lease to Garware Nylons Limited of the said premises on the terms and conditions mentioned therein.

5. Thereafter by a letter dated 9.5.1997, Defendant No.1 requested the Applicants to incorporate their name in records of the Applicants to enable them to pay the monthly payments towards the out-goings. The Applicants by their letter dated 11.7.1997 rejected the request. Defendant No.1 ultimately filed R.A.D. Suit No.2448 of 1997 in the Small Causes Court at Mumbai. The consent decree in terms of the consent terms dated 3rd August, 2004 was passed. The consent terms inter-alia recorded the payment made by

Defendant No.1 (Plaintiff in R.A.D. Suit) and the fact that the possession was handed over to the Applicant on 15.7.2004. The warrant of attachment was issued only on 15.10.2003 and the attachment was in fact levied only on 25.4.2005.

6. There is nothing to indicate that the consent terms were improperly or dishonestly entered into. There is nothing to indicate that any right, title or interest was created in favour of Defendant No.1 in respect of the said property. The property therefore belongs to the Applicants and is not liable therefore to be attached.

7. In the circumstances, the Chamber Summons is made absolute in terms of prayer (a).

8. The Chamber Summons is accordingly disposed of.